

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MARCUS HANSERD,

Petitioner,

Case No. 16-cv-11099

Hon. Matthew F. Leitman

v.

TONY TRIERWEILER,

Respondent.

**ORDER DENYING PETITIONER'S RULE 60(b) MOTION
FOR RELIEF FROM JUDGMENT (ECF No. 32)**

On March 25, 2016, Petitioner Marcus Hanserd filed a Petition for a Writ of Habeas Corpus. (*See* Pet., ECF No. 1.). By an opinion and order dated October 30, 2018, the Court denied the Petition. (*See* Op. and Order, ECF No. 22.) In that ruling, the Court failed to discern that Hanserd was raising a claim that his trial counsel was ineffective for failing to move to exclude a witness's in-court identification (the "In-Court Identification Ineffective Assistance Claim").

After the Court denied Hanserd's habeas petition, Hanserd sought a Certificate of Appealability from the United States Court of Appeals for the Sixth Circuit. That court granted a limited certificate of appealability on the In-Court Identification Ineffective Assistance Claim. (*See* Sixth Circuit Order, ECF No. 32, PageID.1262-1266.)

With Hanserd's appeal pending in the Sixth Circuit, he returned to this Court, and on July 1, 2019, he filed a motion for relief from judgment under Rule 60(b) of the Federal Rules of Civil Procedure. (*See* Rule60(b) Mot., ECF No. 32.) In that motion, Hanserd asks this Court to re-open the proceedings here and to grant relief on his In-Court Identification Ineffective Assistance Claim. (*See id.*)

By order dated February 25, 2020, the Sixth Circuit ruled that the In-Court Ineffective Assistance Claim is time-barred. (*See* Sixth Circuit Order, ECF No. 33.) That ruling is binding on this Court and precludes this Court from granting Hanserd relief on his current motion.

Accordingly, the Court **DENIES** Hanserd's motion from relief from judgment (ECF No. 32) in which he seeks relief based upon the In-Court Identification Ineffective Assistance Claim.

IT IS SO ORDERED.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: March 23, 2020